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Federal Communications Commission
Office of Secretary

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

PETITION FOR RECONSIDERATION AND CLARIFICATION

Roberts Broadcasting of Cookeville, L.L.C., licensee of Television Station WKZX(TV), NTSC Channel 28, Cookeville, Tennessee, ("Roberts"), by its attorneys, and pursuant to 47 C.F.R. § 1.429 (1996), hereby petitions the FCC for reconsideration and clarification of its *Sixth Report and Order* in the above-captioned proceeding^{1/} for the reasons described herein.

I. Introduction.

Roberts has been and remains committed to the implementation of digital television ("DTV") and applauds the Commission's efforts to bring DTV to the American public. Roberts requests, however, that the Commission reconsider certain aspects of the *Sixth R&O* as it applies to WKZX(TV). First, the Commission should not finalize the DTV Table of Allotments or the DTV rules until broadcasters have had the opportunity to comment on *OET Bulletin No. 69*. Second, the Commission must reevaluate the first-adjacent criteria used to allot DTV channels.

^{1/} *Sixth Report and Order*, MM Docket No. 87-268, FCC 97-116 (released April 21, 1997) ("*Sixth R&O*").

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**II. The Commission Must Allow Broadcasters To Comment
on *OET Bulletin No. 69* Before It Finalizes the DTV Table of Allotments.**

In order to evaluate whether the DTV Table implements the Commission's objectives in specific instances, interested parties must be able to calculate the interference that is likely to result and determine the service areas of new DTV stations in accordance with the Commission's methodology (Longley-Rice). But the critical piece of information necessary for stations to evaluate contours—*OET Bulletin No. 69*—has not been timely released though the *Sixth R&O* refers to it on numerous occasions. Without *OET Bulletin No. 69*, it is impossible, for example, for stations to know precisely what operation parameters for the Longley-Rice methodology apply or what amount of interference is considered *de minimis*. In turn, it is impossible for stations to know how to assess the reasonableness of either their own DTV allotment or those of nearby licensees. Moreover, broadcasters are ill equipped to verify whether the DTV Table meets *any* standard of adequacy, much less whether it achieves the goals of service replication and minimal interference as the Commission contends.^{2/}

Therefore, before the rules and the DTV Table become final—but *after* the Commission's methodology is made available—the Commission should give interested parties a further opportunity to comment on the Table and the methodology. A brief additional comment period of 90 days will not significantly delay implementation of the transition to DTV. Indeed, to the extent that there are problems with the DTV Table, the Commission can correct those problems more efficiently and expeditiously if they are identified in a further round of comments

^{2/} As a matter of administrative law, the Commission must, of course, set forth the basis and underlying support for its rules in a manner that is sufficiently detailed to permit judicial review. See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F.2d 688, 701 (2d. Cir. 1975), *cert. denied*, 423 U.S. 827 (1975).

while this proceeding remains open rather than if such issues are raised in a plethora of separate petitions for rule making filed after the DTV Table becomes final.

III. The Commission Must Reevaluate Its Criteria For Assigning First-Adjacent Channels.

The Commission should reconsider the criteria it has used to assign first-adjacent DTV channels. As demonstrated in the Engineering Statement of John F.X. Browne ("Attachment A"), because the Commission has not timely released *OET Bulletin No. 69*, it is not possible to assess the precise impact of the Commission's adjacent channel criteria. The Commission has assigned DTV Channel 27 to WKRN(TV) in Nashville, Tennessee, with transmission facilities located well within the edge of Roberts station WKZX(TV)'s Grade B contour (operation on NTSC Channel 28). This first-adjacent assignment could result in substantial interference to WKZX(TV)'s NTSC signal. Roberts requests that the Commission reconsider this aspect of its assignment methodology to determine whether DTV channels could be allotted without creating interference to first-adjacent NTSC operations.

The Commission should hesitate before concluding that this problem to WKZX(TV) is temporary. First, as the Commission acknowledges, the length of the transition period will effectively depend on market penetration, equipment development and other unpredictable factors.^{3/} Second, WKRN(TV)'s NTSC signal is on Channel 2, which is anticipated to be outside of the core spectrum. Hence, WKRN likely will operate on Channel 27 permanently and thus cause irreparable harm to the ability of WKZX(TV) to serve the major city in its DMA. For these reasons, Roberts asks the Commission to reassign WKRN(TV)'s paired DTV Channel 27.

^{3/} *Fifth R&O* at ¶100.

IV. Commission Rules Should Protect Existing NTSC Coverage From Interference Caused By DTV Operations.

In the *Sixth R&O*, the Commission declined to adopt any special provisions that would mitigate interference among television stations during the DTV transition period.^{4/} The Commission reached this conclusion based on its estimate that the DTV Table of Allotments would fully protect 98.8% of the geographic area and 98.6% of the population served by existing stations.^{5/} Until these figures can be confirmed and broadcasters can assess completely levels of interference, the Commission should not dismiss so quickly the need for interim measures to ensure against interference between NTSC and DTV operations during the DTV transition period.

Because of the unavailability of *OET Bulletin No. 69*, broadcasters have been unable to assess accurately the interference impact DTV operations will have on a station's NTSC coverage. Upon further review, broadcasters may determine that DTV-to-NTSC interference will be significant in particular circumstances (*e.g.*, adjacent-channel, co-channel operations) and that interim measures may be necessary to minimize interference and to ensure that viewers continue to receive NTSC signals during the transition period. Review and analysis of the OET technical standards should permit Roberts to determine more accurately whether such interference would occur. In situations where excessive interference is predicted or does in fact occur, licensees should be able to rely on Commission rules to protect NTSC service areas. Accordingly, to the extent any specific rules could be adopted that would provide for this

^{4/} See *Sixth R&O* ¶ 87.

^{5/} *Id.*

protection for NTSC coverage, Roberts requests that the Commission use this reconsideration proceeding to take such action.

Conclusion

The Commission has made great strides in developing the DTV Table of Allotments and associated methodology. Nonetheless, the rules for this new service should not be finalized until broadcasters have the opportunity to comment on the OET technical standards. Fundamental fairness requires that the Commission not finalize the DTV Table and rules until this comment process is complete.

Roberts also requests that the Commission reevaluate its first-adjacent channel assignment methodology to ensure that such assignments do not cause undue interference to NTSC operations.

Respectfully submitted,

ROBERTS BROADCASTING OF COOKEVILLE, L.L.C.

By: 

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Dated: June 13, 1997

ATTACHMENT A

Engineering Statement



ENGINEERING STATEMENT

of

John F.X. Browne, P.E.

in regard to

DTV Channel Allotment

WKZX – Cookeville, TN

This engineering statement has been prepared at the request of Roberts Broadcasting of Cookeville, L.L.C., licensee of WKZX, Cookeville, TN, with regards to the DTV channel allotment made for this station in the Commission's Sixth Report & Order in MM Docket 87-268.

Cookeville, TN, is situated in the Nashville DMA. The transmission facilities of WKZX are located approximately 30 miles east of Nashville. WKZX presently operates on Channel 28. The Commission has assigned adjacent-channel 27 to be used by the licensee of the NTSC VHF station operating on Channel 2 in Nashville at a power level of 1,000 kW. Its transmitter would be located near the city of Nashville well inside the Grade B contour of WKZX.

While it is not possible to assess the precise impact of the high power adjacent-channel operation (Channel 27) on the WKZX NTSC operations on Channel 28 because Bulletin OET-69 was not available at the time this statement was prepared, it is clear that serious destructive interference will result to the WKZX viewers in Nashville due to the proximity of the Channel 27 transmitter. This will cause irreparable harm to the ability of WKZX to serve the major city in its DMA.

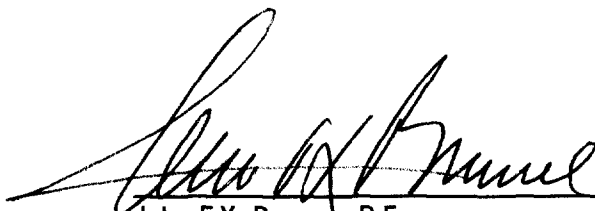
For the reasons stated, the Commission should identify a channel other than one having this destructive relationship to an existing NTSC facility to be allotted in place of Channel 27.

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Certification

This statement was prepared by me or under my direction. All assertions contained in the statement are true of my own personal knowledge except where otherwise indicated and these latter assertions are believed to be true.

A handwritten signature in black ink, appearing to read "John F.X. Browne", written over a horizontal line.

John F.X. Browne, P.E.
June 11, 1997